

AUTHORIZATION FOR EXCEPTION TO KRS 11A.045(1)

EXCEPTION NO. 2001-1

February 9, 2001

RE: May the Lt. Governor accept baby gifts from persons or businesses that may be doing business with, regulated by, or trying to influence the actions of the Lt. Governor?

DECISION: Yes, provided they are reasonable and do not create an appearance of impropriety.

This authorization is in response to your January 3, 2001, request for an exception to KRS 11A.045(1) from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 9, 2001, meeting of the Commission and the following authorization is issued.

You state the relevant facts as follows. The Lt. Governor and his wife are expecting their first child this summer. It is anticipated that they will receive baby gifts of the type customarily received for such a special event from family members and friends. Some of these gifts in the form of funds may be given/put directly in the baby's name after birth. It is possible that some of the gifts received may be from persons or businesses that do business with or that are regulated by the Commonwealth.

Upon a review of the applicable statutes, you do not believe that the Lt. Governor and his spouse's acceptance of baby gifts under the circumstances described would create an appearance of impropriety;

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therefore you request an exemption for such gifts under the authority of KRS 11A.045. You also ask for an exemption of the reporting of such gifts under KRS 11A.050.

KRS 11A.045(1) provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

Additionally, KRS 11A.050(3)(k) provides:

(3) The statement shall include the following information for the preceding calendar year:

...

(k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars (\$200) from any one (1) source to the filer, his spouse, or dependent children, except those from a member of the filer's family;

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The Lt. Governor and his spouse are prohibited from accepting gifts with a value of over \$25 from any person or business doing business with, regulated by, or attempting to influence the actions of, any agency over which the Lt. Governor has ultimate authority. According to Advisory Opinion 99-10, the Commission believes that the Lt. Governor has ultimate authority over any state agency for which he has the authority to make decisions or of which he supervises officials. Therefore, unless the Lt. Governor has the authority to make decisions for or supervise an agency of the Commonwealth, he is not prohibited from accepting a gift from a person or business that is doing business with or is regulated by an agency, unless that person or business is trying in some way to influence the Lt. Governor's official actions (i.e., registered as an executive agency lobbyist to influence the Lt. Governor).

Additionally, the Commission grants an exception, pursuant to KRS 11A.045, for the Lt. Governor and his spouse to accept customary baby gifts from persons or businesses that may be doing business with, regulated by, or attempting to influence the actions of the Office of the Lt. Governor provided such gifts are reasonable in value and an appearance of impropriety will not be created.

The Commission does not have the authority to exempt the Lt. Governor from the reporting requirements in KRS 11A.050. Thus, the Lt. Governor must report any gift he or his wife receives if it has a value of more than \$200 and it is not from a family member. Moreover, the Commission believes that any gift required to be reported may present an appearance of impropriety.

AUTHORIZED BY:

EXECUTIVE BRANCH ETHICS COMMISSION

By CHAIR: Bertie Oldham Salyer, M.A., A.M.E.